

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In the Matter of the Estate of
Jacqueline Jones, Deceased,
William Larry Jones,

Civil No. 02-3659 (JRT)
MDL Case No. 01-1396

Plaintiff,

ORDER SUBSTITUTING PLAINTIFF

v.

St. Jude Medical, Inc.,

Defendant.

James R. Oates, **OATES & OATES**, 101 W. 75th Place Merrillville, IN 46410, for plaintiffs.

Jon F. Schmoll, **SPANGLER, JENNINGS & DOUGHERTY**, 8396 Mississippi Street, Merrillville, IN 46410, and Tracy J. Van Steenburgh, **HALLELAND, LEWIS, NILAN, SIPKINS & JOHNSON**, 600 Pillsbury Center South, 220 South Sixth Street, Minneapolis, MN 55402; for defendant.

Currently before the Court is a motion to substitute plaintiff and amend caption in the case of Jacqueline Jones and William Larry Jones v. St. Jude Medical, Inc. Jacqueline Jones passed away on September 28, 2003. Plaintiff's death was suggested upon the record on July 6, 2004. Although a motion to amend the caption was made on August 11, 2004,¹ a formal motion for substitution was not made until April 22, 2005, more than six months beyond the 90 day period prescribed by Federal Rule of Civil

¹ This motion was granted by the Court on October 18, 2004.

Procedure 25. However, having reviewed the submissions and arguments of the parties, the Court finds that this failure to act was the result of excusable neglect and that the motion should be permitted. Fed. R. Civ. P. 6(b).

Accordingly, based on the foregoing, all the records, files, and proceedings herein,
IT IS HEREBY ORDERED that:

1. Plaintiffs' Motion to Extend and Enlarge the Time to Respond [Docket No. 22] is **GRANTED**.
2. Plaintiffs' Motion to Amend/Correct Caption, Motion to Substitute Party [Docket No. 21] is **GRANTED**.
3. Defendant's Motion to Dismiss [Docket No. 16] is **DENIED**.
4. The caption of this case should read as: In the Matter of the Estate of Jacqueline Jones, Deceased, William Larry Jones v. St. Jude Medical, Inc. The Clerk of the Court is directed to adopt this caption for use in all future proceedings in this matter.

DATED: May 31, 2005
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge